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ANALYSIS OF WAYS TO ENHANCE THE CONTRIBUTION OF SPECIFIC SERVICES SECTORS TO THE DEVELOPMENT PERSPECTIVES OF DEVELOPING COUNTRIES: ENERGY SERVICES IN INTERNATIONAL TRADE: DEVELOPMENT IMPLICATIONS

Note by the UNCTAD secretariat

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I. BACKGROUND

A. Mandate

1. During the open-ended consultations carried out by the President of the Trade and Development Board on 30 January 2001, it was decided, in accordance with the Bangkok Plan of Action as contained in document TD/386, to convene an Expert Meeting on Energy Services in International Trade: Development Implications. The Commission on Trade in Goods and Services, and Commodities endorsed this decision at its fifth session (19–23 February 2001).

B. Organization of the Expert Meeting, and attendance

2. The Expert Meeting attracted considerable attention. In fact, it was the first intergovernmental gathering on the specific issue of international trade in energy services. The study prepared by the secretariat for the meeting was equally one of the first analytical studies carried out on the sector. The majority of participants evaluated the study as "very useful" and most experts rated it as either "excellent" or "good" as far as "originality of ideas", "wealth of information", "quality of analysis" and "validity of conclusions" were concerned. Only one expert found that the study was "not useful". The study and the Outcome of the Expert Meeting were made available to the Council for Trade in Services of the World Trade Organization (WTO) at its session held in October 2001.

3. The Expert Meeting was attended by over 110 representatives of 48 countries (27 developing countries, seven LDCs, four countries with economies in transition and ten developed countries). UNCTAD sponsored the participation of four representatives from developing countries (Bolivia, India, Kenya and Peru) and three from least developed countries (Angola, Bhutan and Burundi). All countries that play a major role in the energy services market were represented, as well as those countries that had submitted proposals on energy services in the framework of the ongoing General Agreement on Trade in Services (GATS) negotiations. There was also considerable representation from international organizations, including the WTO, the Organisation for Economic Co-operation and Development, the European Commission, the Inter-American Development Bank, the European Charter Secretariat, the UN Economic Commission for Europe, the UN Economic and Social Commission for Western Asia and the UN Department for Economic and Social Affairs. Academia and civil society were also represented. A number of delegations, such as those of the European Commission, Kenya, the United States and Venezuela, consisted of several delegates, including private sector representatives.

4. At the time of publication of this note, the secretariat had received two policy comments - from Colombia and Bolivia - on the Outcome of the Expert Meeting. Colombia agreed with the Outcome, including the items identified by the experts for future action under "Analytical work" and "Follow-up actions". It suggested that UNCTAD could analyse the cases of several countries, including Colombia itself, which had recently implemented structural reform in the energy sector. This analysis could be conducive to an exchange of views on the different liberalization models which have been utilized, as well as to finding solutions to the problems which have appeared during the reform process. UNCTAD could set up a roster of experts who could provide advice to developing countries that are in the process of reforming their energy sector. Colombia also suggested the establishment of a

support programme for interconnectivity projects, which are the precondition for integration of the energy markets. Schemes for the transfer of technology from private firms in developed countries to public enterprises in developing countries should be established in order to foster developing country competitiveness. Lastly, Colombia agreed on the need for UNCTAD to continue providing technical cooperation and policy advice aimed at protecting Governments and private users against the risk of high price volatility.

5. The comments provided by Bolivia referred to the electricity subsector. On the issue of small and medium-sized enterprises (SMEs), Bolivia indicated that the strengthening of SMEs' participation in that subsector would entail an analysis of the subsector in each country, especially its structure and legal framework. Bolivia agreed with the conclusions reached by the experts regarding the critical importance of technology transfer and the suitability of renewable energies for addressing the problem of electricity shortages, especially in rural areas. It believed that the creation of local venture funds should be encouraged, and that multilateral financial institutions should contribute to setting them up. It also agreed that in most energy-related studies the energy services component had been neglected, and stressed that representatives of the regulatory authorities should be involved in future UNCTAD workshops and seminars on the energy services sector.

C. The main issues arising from experts' discussions

6. A series of issues emerged from the debate which was organized around three broad themes: sectoral markets for energy and energy services; energy services in the GATS and the ongoing debate in the WTO; and implications for developing countries.

7. Under the first theme, it was noted that the energy sector has the potential to greatly contribute to the economic growth of all countries and to international trade. Experts pointed out that energy is one of the most important drivers of economic development and is a key determinant for the quality of our daily lives. Energy services play a crucial role in providing efficient access to energy in support of development and constitute the value added in the energy chain, from exploration to consumption. Energy is probably the biggest business in the world economy, with a turnover of at least US$ 1.7–2 trillion a year. According to some estimates, global investment in energy between 1990 and 2020 will total some US$ 30 trillion at 1992 prices.

8. Developing countries are thus faced with the challenge of, on the one hand, achieving more reliable and efficient access to energy, and, on the other hand, of obtaining a greater share of the energy business. To facilitate the achievement of these goals, both the regulatory regime and the physical infrastructure need to be developed and/or strengthened. Third-party access – competitors' legal entitlement to use the transmission network – was regarded by the experts as precondition for creating competitive cross-border energy markets. Cross-border energy transit – the transit of energy through intermediate countries – was also discussed. Experts commented that unfair "transit" charges should be avoided, but the interests of the transit countries have to be taken into account. They agreed that the liberalization of the energy sector does not mean lack of regulations; on the contrary, it should be carried out under the appropriate regulatory framework with a view to ensuring the achievement of national policy objectives, including public services obligations and the establishment of fair competition conditions. It was noted that the demand for energy, the liberalization of energy markets and the introduction of new technologies would combine to create a dynamism in

trade and investment in the energy sector even greater than that experienced by the telecommunication sector in the previous decade.

9. Discussion under the second theme provided an opportunity to present and analyse the six negotiating proposals on energy services that had been submitted in the GATS negotiations by Canada, Chile, the European Communities, Norway, the United States and Venezuela.[1] A series of issues emerged from the debate, including transfer of technology, strategic alliances between domestic and foreign firms, and other measures to strengthen energy services in line with Articles IV and XIX:2 of the GATS; the problems that the existing classification may pose for scheduling meaningful commitments; and the possible need to develop an additional legal instrument for the sector to address its particular features. The issue of the participation of SMEs in the energy services market was analysed. Experts mentioned the following as being among the specific difficulties faced by SMEs: demand volatility, and the consequent lack of transparency and predictability in the business environment; large capital requirements; weak linkages with international markets; scarce information about commercial opportunities abroad; and the difficulty in finding highly trained personnel. Moreover, SMEs have difficulties in establishing a good reputation and gaining customer confidence in key areas such as quality, health, safety and environmental protection capabilities. The debate served to demonstrate the wide scope and economic and political implications of any negotiations under the GATS in the energy services sector.

10. A large number of interventions were made under the third theme, several of which described the dramatic situation of large segments of the population in developing countries that had virtually no access to commercial energy, with severe repercussions for the quality of life, health and sustainable development. The experts noted that the provision of adequate, affordable energy is essential for eradicating poverty, improving human welfare and raising living standards worldwide, and is a precondition for industrial development and for attracting foreign investment. Countries, especially the developing ones, have to identify mechanisms for linking energy and development and ensuring that the energy sector contributes to their economic development.

11. At the initiative of the Chairman of the Expert Meeting (H.E. Ambassador Werner Corrales of Venezuela), the Outcome of the Meeting departed slightly from the format usually adopted at Expert Meetings, particularly in its emphasis on future analytical work and follow-up actions. This arose from the general perception that little was known about the energy services sector, particularly its global structure and its contribution to the economy. A large number of proposals were submitted with regard to future areas for research and analysis.

II. AREAS FOR FURTHER ACTION: POLICY PROPOSALS BASED ON THE EXPERTS' DISCUSSIONS

A. Policy instruments and strategies

11. The experts made *inter alia* a number of suggestions for consideration by Governments, which are set out below.

[1] An additional proposal on energy services was submitted by Japan in October 2001.

12. Action is needed to promote wider and more efficient and affordable access to energy for people and industry, especially in developing countries. Among other means, this can be achieved through regulatory reform and by creating an environment which attracts domestic and foreign investors. Multilateral, regional and bilateral financial resources should be provided, whenever possible, for achieving the goal of making energy available to the poor.

13. Experts, especially from developing countries, emphasized that measures are needed to increase the competitiveness of suppliers of energy services in developing countries, and to foster development of the networks of SMEs so that those suppliers can increase their share in the energy services market and provide a source of innovation. Strategic alliances between local and foreign firms and between large companies and SMEs should be encouraged in order to enable the identification of market opportunities. The participation of local knowledge and talent should serve to build trust and long-standing business relationships. Large companies' purchasing practices can provide a stimulus for SMEs. Special loans should be made available to support the development of local entrepreneurship and address cash-flow shortcomings.

14. The experts emphasized that progressive liberalization of market access conditions for energy services should be pursued, taking into account differences among countries in their level of development, regulatory frameworks and market realities.

15. Experts noted that transfer of technology in the energy sector is essential. However, the technology that is transferred should be appropriate to the situation of the receiving country in terms of level of development and environmental situation. Local firms should contribute to making foreign technology suited to domestic conditions and benefit from technological spillover. Access to technology should be affordable, and may include licensing or other procedures relating to its use.

16. Temporary admission of specialized equipment could facilitate the provision of energy services. It was noted that Governments sometimes allow foreign companies to import the necessary equipment duty-free. Local firms, however, do not benefit from this advantage, and this has negative implications for their competitiveness. Therefore, the same treatment should be made available to all companies operating in the sector.

B. International trade negotiations

17. Experts expressed the view that multilateral and regional negotiations on energy services should be pursued in recognition of the role that energy plays in development and taking into account the development policies and objectives of developing countries.

18. Experts addressed a number of issues that are under discussion in the GATS negotiations in the light of the current negotiating proposals. These included proposals for clarification of the scope of energy services and improvement of current classification, the development of a "checklist" which could be used as a tool to facilitate negotiations at the multilateral and regional levels, the suitability of developing an instrument specific to the energy services sector and comparable to the Reference Paper on Basic Telecommunications, and its possible content. Experts mentioned rules on competition and some conditionalities to link the opening of the energy sector with development as the possible content of the reference paper. However, some experts expressed different positions with respect to these

issues. The importance of preserving the legal certainty of the WTO Members' commitments under the current classifications was emphasized. Also, it was stressed by some that classification should take into account the specificity of different energy markets in terms of differences in energy sources and diversity of regulatory frameworks.

C. Analytical work

19. Experts noted that in most energy-related studies the energy services component has been neglected, and the ongoing international negotiations on energy services would be greatly facilitated by analytical work in this area and by data about market reality.

20. Experts identified a number of areas for further study and analysis. It was made clear that the Commission on Trade in Goods and Services, and Commodities would have to take decisions regarding priority areas where UNCTAD may carry out additional analytical work, namely:

(a) Analysis of the main structural characteristics of the energy services markets; key aspects of technological change; and the role of international and national standards and regulations on trade in energy services. These studies could contribute to the assessment of trade in services that the WTO Council for Trade in Services is carrying out at present;

(b) National experiences with structural reform of the energy sector in developing countries, and potential difficulties and opportunities for domestic energy services suppliers resulting from it; analysis of the impact of energy-related subsidies on development and trade;

(c) Compilation and analysis of a list of successful experiences of developed and developing countries in the energy sector from the investment, technology, enterprise development and other viewpoints. This could include the role of SMEs in the energy services sector, and possible disciplines to strengthen them and further their market participation;

(d) Analysis of the main issues as identified in the current GATS negotiating proposals on energy services and their possible implications for developing countries, taking into account the overall framework of WTO disciplines and the ongoing services negotiations;

(e) Analysis of issues arising from cross-border transit of energy.

D. Follow-up actions

21. Experts identified a number of areas where further action is needed. It was agreed that the Commission on Trade in Goods and Services, and Commodities would have to take decisions regarding priority areas where UNCTAD may take action, namely:

(a) Organizing workshops and seminars on different aspects of the energy services;

(b) Promoting dialogue and exchange of experiences between private firms, particularly SMEs, and the public sector on energy services and related issues;

(c) Exploring the interest of other relevant international organizations, such as the Organization of the Petroleum Exporting Countries (OPEC) and the Energy Charter Secretariat, as well as the UN regional commissions, in carrying out studies in cooperation with UNCTAD in the area of energy services with a specific focus on development and trade;

(d) Exploring the interest of international financial institutions in developing, in cooperation with UNCTAD, methodological tools for assessing the impact of investment and production in the energy services sector on economic growth, and formulating development policies in this sector;

(e) Continuing to provide technical assistance and policy advice through relevant mechanisms to producers and users of oil and gas in developing countries, in particular in the context of implementing privatization and liberalization schemes, aimed at protecting Governments and private users and consumers against the risks of high price volatility.

22. The experts welcomed the kind offer made by the representative of the UN Economic and Social Commission for Western Asia (ESCWA) to host a meeting in Beirut (Lebanon) to continue the discussions on some of the issues raised during the course of the Expert Meeting.

23. The UNCTAD secretariat has already started taking steps in some of the areas identified by the experts under "Follow-up actions". The UNCTAD and OPEC secretariats are in the process of establishing a joint cooperation programme that includes analytical activities as well as capacity-building initiatives in the area of trade and finance. A "Memorandum of Understanding for a joint cooperation programme between OPEC and UNCTAD" will most likely be signed before the end of 2001. In addition, UNCTAD has been in contact with the representatives of ESCWA to follow up on the offer to host a meeting on energy-related issues in Beirut.

24. In view of the novelty and complexity of the issues related to the energy services sector and its trade and development implications, and of the need identified by the experts for further action, it might be appropriate for UNCTAD to continue working on this theme by carrying out activities aimed at contributing to a better understanding among the relevant stakeholders of the issues at stake, offering a forum for the exchange of experiences among policymakers and researchers, and providing capacity-building opportunities. At present, no other intergovernmental organizations are specifically doing so; and the work that UNCTAD has been carrying out in this field has been highly appreciated by both developing and developed countries, and by academia. Topics for in-depth analysis complementary to those highlighted by the experts during the Expert Meeting may include the contribution of energy services to enhancing energy supply capacity in developing countries to overcome "energy poverty" and the liberalization of developed country energy markets and its possible implications for developing country trade and development perspectives.